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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,274	07/23/2003	Rudolf Muller	60,152-1010	8397
27305	7590	06/03/2004	EXAMINER	
HOWARD & HOWARD ATTORNEYS, P.C. THE PINEHURST OFFICE CENTER, SUITE #101 39400 WOODWARD AVENUE BLOOMFIELD HILLS, MI 48304-5151			COMPTON, ERIC B	
			ART UNIT	PAPER NUMBER
			3726	

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

18

<b>Office Action Summary</b>	<b>Application No.</b> 10/625,274	<b>Applicant(s)</b> MULLER ET AL.	
	<b>Examiner</b> Eric B. Compton	<b>Art Unit</b> 3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 42-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 42-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/23/2003</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Objections*

1. Claims 43-48 are objected to because of the following informalities: these claims all depends from claim 32, which is canceled. These claims should depend from claim 42. See, Remarks, Page 8 of the Response dated July 23, 2003 (noting these claims include the limitations of claim 42). Appropriate correction is required.
2. Claim 48 is objected to because of the following informalities: lines 1-4 recite "providing said fastener component having a first element joinable to the first component a set forth in step a) and second element joinable to the second component a set forth in steps b) and c) and a third element insertable between said first and second elements prior to performing step c)." This limitation is replete with grammatical errors. Perhaps the limitation should read, --providing said fastener ~~component having~~ comprises a first element joinable to the first component as set forth in step a) and a second element joinable to the second component as set forth in steps b) and c) and a third element insertable between said first and second elements prior to performing step c).-- Appropriate correction is required.
3. Claim 49 is objected to because of the following informalities: line 4, recites the first end of the fastener element having "an abutment" and line 11, recites the second end of the fastener element having a "second shoulder." The use of the term "second" generally assumes a "first" of such element. However, Applicant uses "abutment" instead of "first shoulder." Line 14 recites, "pinching." This should probably read -- cinching—as used in line 4. Also, line 14 recites, "should." This should probably read

--shoulder--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 42-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. The claims appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. The claim objections, above, and the 112 rejections, below, are just some of the errors noted by the Examiner. Applicant is requested to carefully read the claims and make changes, if needed.
7. Claim 42 recites the limitation "said first tubular barrel portion" in lines 2-3, and line 7-8. There is insufficient antecedent basis for this limitation in the claim.
8. Claim 42 recites the limitation "said barrel portion" in lines 4 and 15. It is ambiguous whether this limitation refers to the "first tubular barrel portion" or the "second tubular barrel portion," which are both introduced in claim 42. There is insufficient antecedent basis for this limitation in the claim.
9. Claim 42, line 13; Claim 43, line 3; Claim 44, line 2; Claim 45, lines 1-2; and Claim 47, line 2 recite the limitation "said fastener device." There is insufficient antecedent basis for this limitation in the claim. There is no prior recitation of "a fastener

device." It is believes Applicant meant merely to recite "said fastener" as recited in claim 42, line 2.

10. Claim 48, line 2 recites the limitation "said fastener component." It is believes Applicant meant merely to recite "said fastener" as recited in claim 42, line 2. There is insufficient antecedent basis for this limitation in the claim. There is no prior recitation of "a fastener component." It is believes Applicant meant merely to recite "said fastener" as recited in claim 42, line 2.

11. Claim 44 recites the limitation "wherein step c) comprises bonding said fastener device to the second component in said second region." First, there is insufficient antecedent basis for the limitation, "said second region" in the claim. Second, claim 42 step c) requires a deforming process. Since "bonding" does not involve a "deforming process" this limitation is in conflict with claim 42 for which it depends.

12. Claim 45 recites the limitation "wherein comprises welding said fastener device to the second component." It is not clear as to which step the welding is to be applied.

13. Claim 49 recites the limitation in lines 14-15 "said panel member being deformed radially outwardly." It is believed the at Applicant meant to recited --said fastener element being deformed radially outwardly.— Since, the step in line 13 requires a deforming step of this element, not the panel. See *also* a similar limitation in lines 5-7.

14. The remaining claims depends from either claim 42 or 49, and therefore are also indefinite due to their dependency on these claims.

***Claim Rejections - 35 USC § 102***

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. Claims 42, 49 and 54, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat 3,563,183 to Rich.

Regarding claims 42 and 49, Rich discloses a method of making a joint between a first (12) and a second component (14) using a fastener (16) having a first end (top end) with a flange (17) and a second end (bottom end) with a flange (18), wherein the outward end of the fastener are radially deformed to sandwich the panel between the flange and deformed portion.

Regarding claim 54, See Figure 2.

***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rich in light of US Pat. 2,767,877 to Newsom.

Rich discloses the invention cited above, specifically using a fastening technique to attach the fastener to the panel. However, he does not disclose a riveting joint rivet.

Newsom discloses a method for installing a spacer between spaced apart panels in order to form a vehicle body panel. The fastener (14) is deformed to outwardly fix it to a sheet component (23) by a blind rivet technique using a mandrel (19).

Regarding claim 46, it would have been obvious to one having ordinary skill in the art at the time the invention was made to clinched the panels of Rich together with a blind rivet technique using a mandrel, in light of the teachings of Newsom, in order to form a snug fit which will not be readily displaced or separated. (col. 2, lines 32-35).

19. Claims 44-45 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rich in light of US Pat. 6,188,039 to Gass.

Rich discloses the invention cited above, specifically using a fastening technique to attach the fastener to the panel. However, he does not disclose further bonding or welding the panels together. Official Notice is taken that metal pallets are known in the art.

Gass discloses a method for installing a spacer between spaced apart panels in order to form a vehicle body panel. The fastener is welded to the panels. (col. 5, lines 21-25). Likewise, the panels are further welded together (at 38) after the spacer is installed.

Regarding claims 44-45 and 54, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have welded the panels

together in the method of Rich, in light of the teachings of Official Notice and Gass, in order to more permanently form the panels.

20. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rich in light of US Pat. 2,56,336 to Selden.

Rich discloses the invention cited above, specifically using a fastening technique to attach the fastener to the panel. However, he does not disclose attaching a component to the fastener with a bolt. Official Notice is taken that it is known to attach components to pallet, such as a lifting hook.

Selden discloses a fastener to make up a panel. The fastener is provided with a threaded bore. While this is used to fasten the fastener to the panel, it also can be used to attach a body to the panel in a detachable manner. See Col. 6, lines 35-40.

Regarding claims 44-45 and 54, it would have been obvious to one having ordinary skill in the art at the time the invention was attached a component to the fastener with a bolt in the method of Rich, in light of the teachings of Official Notice and Selden, in order to provide a means for attaching a body to the panel.

#### ***Allowable Subject Matter***

21. Claims 47-48, and 54 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not teach or suggest a method to join panels

Art Unit: 3726

comprising: using the 3-part fastener as claimed, in combination with the other claimed subject matter.

22. 43 and 52 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not teach or suggest a method to join panels comprising: piercing the hole in the panels with the end of the fastener, in combination with the other claimed subject matter.

#### ***Prior Art References***

The prior art references listed on the enclosed PTO-892, but not used in a rejection of the claims, are cited for their teachings of making a joint between first and second components.

#### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric B. Compton whose telephone number is (703) 305-0240. The examiner can normally be reached on M-F, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter B. Vo can be reached on (703) 308-1789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eric Compton  
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A/U 3726